



City of New Bedford

IN COMMITTEE

April 26, 2018

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Ordinances at a Meeting held on Tuesday, April 17, 2018, considered a WRITTEN MOTION, Council President Lopes, Councillors Abreu, Winterson, Dunn and Oliveira, requesting that the City Council look into adopting a Wage Theft Prevention Ordinance modeled after the Town of Quincy. (To be Referred to the Committee on Ordinances.) (Ref'd 9/28/17) (2/21/18-tabled 30-40 days, co-sponsors of original motion to meet with Atty. Gerwatowski to work with him on specifics vs. providing him with a broad brush, and that the language be submitted back to Ordinance by Atty. Gerwatowski for Committee review)

On motion by Councillor Morad and seconded by Councillor Rebeiro, the Committee VOTED: To recommend to the City Council ADOPTION of the Ordinance, Relative to Wage Theft, submitted by Attorney David Gerwatowski. This Ordinance passed on a voice vote.

IN COMMITTEE ON ORDINANCES

Councillor Hugh Dunn, Chairman

HD: dmb



CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

AN ORDINANCE

RELATIVE TO WAGE THEFT

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Subparagraph (2) of paragraph (a) of section 10-77 of the city code is hereby amended by striking said subparagraph in its' entirety and inserting in place thereof the following subparagraph:-

(2) The bidder and all subcontractors under the bidder shall comply with the obligations to pay prevailing wage rates pursuant to applicable law and is required to make timely and/or complete payment of any wages or overtime earned and owing to an employee.

SECTION 2. Paragraph (a) of section 10-77 of the city code is hereby amended by inserting, after subparagraph (6), the following subparagraph:-

(7) any bidder or any subcontractors under the bidder that has been subject to a federal or state criminal or civil judgment, administrative citation, final administrative determination, or debarment resulting from a violation of chapters 149 or 151 of the General Laws or 29 USC 201 et seq. within 3 years of their application or within the duration of a contract awarded by the city after application shall, if chosen by the city to enter into contract, be required by the city to obtain a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages for all employees employed on the specific city contract, based on an average of its total labor costs for the past two years. Such bond must be maintained for the terms or extensions of any contract, and proof of such bond must be provided upon request by the city. The city shall also consider any such violations in determination whether or not the bidder is a qualified bidder for purposes of awarding a contract.

SECTION 3. Paragraph (b) of section 10-77 of the city code is hereby amended by striking the number (6) and inserting, in place thereof, the following number:-

(7)

SECTION 4. Paragraph (c) of section 10-77 of the city code is hereby amended by striking the number (6) and inserting, in place thereof, the following number:-

(7)

SECTION 5. Paragraph (e) of section 10-77 of the city code is hereby amended by inserting, at the beginning of said paragraph the following words:-

Except for the provisions of paragraphs (a)(2) and (a)(7) of this section,

SECTION 6. Chapter 15 of the code of ordinances is hereby amended by inserting, after section 15-12, the following new section:-

Sec. 15-13. Payment of wages requirement of applicants and licensees.

- (a) Any application to the city for any license issued pursuant to Chapters 138 or 140 of the General Laws may be denied if, during the 3 year period prior to the date of the application, the applicant has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of chapters 149, 151 of the General Laws; the Fair Labor Standards Act; or any other state or federal laws regulating the payment of wages. Each applicant for a license shall certify to the licensing authority that the applicant has not been found guilty, liable or responsible, in the past 3 years, in any judicial or administrative proceeding, for any violation of any of the laws set forth above.
- (b) Any license or permit issued by any city licensing authority pursuant to Chapters 138 or 140 of the General Laws may be modified, suspended or revoked if, during the term of the license or permit, the licensee or permittee has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of chapters 149, 151 of the General Laws; the Fair Labor Standards Act; or any other state or federal laws regulating the payment of wages.
- (c) Any licensee or permittee who during the term of the license or permit or any applicant for a permit or license has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of chapters 149, 151 of the General Laws; the Fair Labor Standards Act; or any other state or federal laws regulating the payment of wages shall, whenever the city licensing authority in its' discretion under paragraph (a) above grants the license or permit or under paragraph (b) above does not revoke the license or permit, be required to obtain a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages for all employees employed by the licensee or permittee, based on an average of its total labor costs for the past two years. Such bond must be maintained for a term deemed appropriate by the licensing authority, and proof of such bond must be provided upon request by the city.

SECTION 7. Chapter 10 of the code of ordinances is hereby amended by inserting, after section 10-47, the following new section:-

Sec. 10-48. Payment of wages requirement for parties to a tax increment financing agreement or special tax assessment.

- (a) Any agreement for special tax assessment or tax increment financing agreement with the city shall be denied if, during the 3 year period prior to the date of the application for such an agreement, the applicant has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of chapters 149, 151 of the General Laws; the Fair Labor Standards Act; or any other state or federal laws regulating the payment of wages. Each applicant shall certify to the city council through the city's Economic Development Council that the applicant has not been found guilty, liable or responsible, in the past 3 years, in any judicial or administrative proceeding, for any violation of any of the laws set forth above.
- (b) Every agreement for special tax assessment or tax increment financing agreement shall set forth the provision that the agreement may be modified, suspended or revoked unilaterally by the city if, during the term of the agreement, the party to the agreement has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of chapters 149, 151 of the General Laws; the Fair Labor Standards Act; or any other state or federal laws regulating the payment of wages.
- (c) Every agreement for special tax assessment or tax increment financing agreement shall set forth the provision that if any certification pursuant to subsection (a) of this section is found to have been falsely made, the agreement shall be revoked and the city may recover any tax benefits received as a result of said agreement.

Section 8.

This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.